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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,988	09/12/2003	Frank Camaioni	402-191	6098

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EXAMINER

CHIN SHUE, ALVIN C

ART UNIT PAPER NUMBER

3634

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/660,988	Applicant(s) CAMAIONI, FRANK	
	Examiner Alvin C. Chin-Shue	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-12 and 14-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5,11,12 and 14-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of the claims 11 and 18 stated that only the extension is being claimed, therefore limitations with respect to the conventional ladder, e.g. a greater width than the conventional ladder, and the sidewalls abuts the sidewalls of the ladder, as set forth in claim 12, renders the claims indefinite. Is the means for engaging the rung of the ladder also for engaging a conventional ladder, as set forth in claim 5?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11,12,14-16 and 18-20 as understood and assuming to be definite, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brugner. Brugner shows an extension 29. The extension is capable of being used with

conventional ladders of different widths, e.g., conventional ladders having a width less than or abutting Brugner's extension rails.

Claims 2-8,11,12 and 14-21 as understood and assuming to be definite, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB pat. '236 to Lee. Lee shows an extension 10 and support element 18. The extension is capable of being used with conventional ladders having a width abutting Lee's extension sidewalls.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brugner in view of Bauer. Brugner shows the claimed extension with the exception of the support element. Bauer shows a support element at 70. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a support element, as taught by Bauer, to Brugner for bracing his extension against a vertical support.

Claims 2-5,12 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hulme et al. Hulme in fig.7 shows a ladder extension section 120 with means for engaging at 164 and a ladder 110.

Claims 2-5,12 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Edmonds. Edmonds shows means for engaging at C,E,F.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edmonds in view of Stanley. Edmonds shows the claimed ladder with the exception of the support element. Stanley in fig.3 shows a support element. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the extension of Edward with a support element, as taught by Stanley, for spacing his extension from a wall. Furthermore, to place the support element to extend in the direction of the means for engagement depending on the placement of the extension on the ladder in the slanted position, and to position the support element at a midpoint of the extension depending on the height of the supported contact with a wall desired, would have been an obvious mechanical expedient to one of ordinary skill in the ladder art.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edmonds in view of Parent. Edmonds shows the claimed ladder with the exception of the first and second pairs of engaging elements. Parent shows an

extension first and second pairs of engaging elements c,e to enable lateral and vertical spaced rung engagement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the extension of Edward with an additional of his engagement element C,E,F laterally spaced, as taught by Parent, to enable a balanced enhance engagement.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edmonds in view of Lee. Edmonds shows the claimed ladder with the exception of the first and second pairs of engaging elements. Lee shows an extension first and second pairs of engaging elements 24,25 to enable lateral and vertical spaced rung engagement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the extension of Edward with to comprise engagement elements, as taught by Lee, in lieu of his, to enable a balanced enhance engagement.

Claims 2-7,12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins in view of Lee. Jenkins shows the claimed ladder with the exception of the claimed first and second pairs of engaging elements. Lee shows an extension first and second pairs of engaging elements 24,25 to enable lateral and vertical spaced rung engagement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jenkins to

comprise engagement elements, as taught by Lee, in lieu of his engaging means at 19, to enable engagement to the rungs of his ladder.

Applicant's election of the abutting rails in the reply filed on 3.4.05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 13 has been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3.4.05.

Applicant's arguments filed 11.22.04 have been fully considered but they are not persuasive. With regards to the rejection under 35USC 112 of claims 11-20, an article should be limited with respect to itself and not to an unclaimed element. With respect to Brugner not showing an extension having a width with respect to a conventional ladder, note only the extension is being claimed and conventional have different widths, furthermore, applicant's arguments appears to be directed to a combination with an conventional ladder which combination is not being claimed. Now applicant appreciates why an article should be limited with respect to itself and not to unclaimed elements. With respect to Lee, Lee shows all the claimed elements and therefore meets the claimed invention. Lee show a pair of

sidewalls 11 connected by a plurality of transversally extending members which are capable of being stepped on. An article should structurally recite over the prior art and not what it is called to avoid anticipation.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is

571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue
Examiner
Art Unit 3634

ACS